

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**USAA GENERAL INDEMNITY
COMPANY**

PLAINTIFF

v.

CAUSE NO. 1:17CV361-LG-RHW

**JONATHAN LYTLE; USA MEDICAL
CENTER; MEMORIAL HOSPITAL AT
GULFPORT; REV CLAIMS, LLC; MED
TRANS CORPORATION; O'REILLY
AUTOMOTIVE, INC.; ALLEGIANCE
BENEFIT PLAN MANAGEMENT,
INC.; and JOHN DOES 1-20**

DEFENDANTS

**ORDER REQUIRING ADDITIONAL BRIEFS CONCERNING
USA MEDICAL CENTER'S SPECIAL LIMITED APPEARANCE
FOR THE PURPOSE OF OBJECTING TO JURISDICTION**

BEFORE THE COURT is the [6] Special Limited Appearance for the Purpose of Objecting to Jurisdiction, or in the Alternative, to Dismiss or Transfer for Forum Non Conveniens filed by the defendant USA Medical Center. The defendants Jonathan Lytle and O'Reilly Automotive, Inc., have filed a response in opposition that was joined by the plaintiff USAA General Indemnity Company. However, USA Medical Center did not file a reply in support of its Motion.

After reviewing the submissions of the parties, the record in this matter, and the applicable law, the Court finds that the parties should be required to submit additional briefs that further address Fifth Circuit law concerning this issue, including *E-Systems, Inc. v. Pogue*, 929 F.2d 1100 (5th Cir. 1991), and *Fontenot v. McCraw*, 777 F.3d 741, 755 (5th Cir. 2015). The parties must also address whether Congress has authority to abrogate state sovereign immunity under the Commerce

Clause. *See Hattem v. Schwarzenegger*, No. 04 Civ.1944(GEL), 2004 WL 1192355, at *1 n.2 (S.D.N.Y. May 27, 2004) (citing *Seminole Tribe v. Florida*, 517 U.S. 44, 65-66 (1996)). Finally, the parties must brief whether waiver or estoppel would prevent USA Medical Center from seeking to recover the funds at issue in this interpleader action if USA Medical Center is dismissed pursuant to sovereign immunity. The Court is particularly concerned that USAA General Indemnity may be unable to obtain complete relief in this interpleader without the presence of USA Medical Center as a defendant.

IT IS, THEREFORE, ORDERED AND ADJUDGED that USA Medical Center is required to file an additional brief concerning its [6] Motion on or before May 7, 2018.

IT IS, FURTHER, ORDERED AND ADJUDGED that any party that opposes USA Medical Center's [6] Motion must file a brief on or before May 22, 2018.

SO ORDERED AND ADJUDGED this the 23rd day of April, 2018.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE